

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JUN 19 1997

Federal Communications Commission
Office of Secretary

In the matter of:)	
)	
Policies and Rules Pertaining to Local)	RM-9085
Exchange Carrier "Freezes" on)	CCB/CPD 97-19
Consumer Choices of Primary Local)	
Exchange or Interexchange Carriers)	

REPLY OF GTE SERVICE CORPORATION

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone operating companies, hereby files its Reply to MCI Telecommunications Corporation's ("MCI") above-captioned Petition for Rulemaking.¹ Many commenters, in addition to GTE, objected to MCI's Petition on the ground that although it proposes limits on PIC-change restrictions, it fails to address the underlying problem such restrictions are intended to resolve – the unauthorized and illegal switching of a customer's preferred carrier, *i.e.* slamming.² Although a few commenters supported the Petition, none made

¹ MCI Telecommunications Corporation, Petition for Rulemaking, RM-9085, CCB/CPD 97-19 (filed Mar. 18, 1997) ("MCI Petition").

² See, e.g., Ameritech Comments, RM-9085, CCB/CPD 97-19 at 6 (filed June 5, 1997) ("Ameritech Comments"); Comments of Harrisonville Telephone Company, RM-9085, CCB/CPD 97-19 at 7 (filed June 4, 1997) ("Harrisonville Comments"); Comments of the United States Telephone Association, RM-9085, CCB/CPD 97-19 at 2-3 (filed June 4, 1997) ("USTA Comments"); ALLTEL Telephone Services Corporation's Comments in Opposition to MCI's Request for Rulemaking, RM-9085, CCB/CPD 97-19 at 1-2, 4 (filed June 4, 1997) ("ALLTEL Comments"); SNET Comments in Opposition to MCI's Petition for Rulemaking, RM-9085, CCB/CPD 97-19 at 6-9 (filed June 4, 1997) ("SNET Comments"); Comments by Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell in Opposition to MCI's Petition for Rulemaking, RM-9085,

(Continued...)

024

any attempt to address slamming issues or to suggest measures which could substitute for the protection provided by PIC-change restrictions.³ GTE submits that it would be wrong to consider MCI's overbroad and unnecessarily restrictive proposal in a vacuum, apart from the legitimate concerns of carriers and customers regarding the epidemic of slamming in the telephone marketplace.

Congress specifically enacted strong anti-slamming provisions in Section 258 of the Act. Limiting PIC-change restrictions, the most effective method currently available to customers to combat slamming, without addressing the adequacy of other measures to prevent such illegal actions by carriers would be flatly inconsistent with Congressional policy priorities. Accordingly, the Commission should only consider the desirability of additional rules for PIC-change restrictions in a comprehensive proceeding examining all slamming issues. MCI's request for a separate rulemaking on PIC-change restrictions should, therefore, be denied.

(...Continued)

CCB/CPD 97-19 at 12 (filed June 4, 1997) ("SBC Comments"); BellSouth Comments, RM-9085, CCB/CPD 97-19 at 2 (filed June 4, 1997).

³ See, e.g., AT&T Comments, RM-9085, CCB/CPD 97-19 (filed June 4, 1997) ("AT&T Comments"); Cable and Wireless, Inc. Statement in Support of Petition for Rulemaking, RM-9085, CCB/CPD 97-19 (filed June 4, 1997) ("C&W Comments"); Comments of the Association for Local Telecommunications Services, RM-9085, CCB/CPD 97-19 (filed June 4, 1997); Comments of the Competitive Telecommunications Association, RM-9085, CCB/CPD 97-19 (filed June 4, 1997).

I. CONGRESS HAS MADE CLEAR THAT IT INTENDED TO STRENGTHEN MEASURES TO PREVENT SLAMMING.

In Section 258 of the Telecommunications Act, Congress increased the penalties facing carriers that slam customers, stating that:

[a]ny telecommunications carrier that violates the [Commission's] verification procedures ... and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation ... in addition to any other remedies available by law.⁴

In addition, Section 258(a) requires the Commission to prescribe procedures for submitting and executing a change in customer's local and toll providers.⁵ Thus, Congress has made clear its intent that the Commission take serious measures to prevent slamming.

PIC-change restrictions were developed by carriers as a response to the explosive growth of slamming complaints and have proven to be a largely effective mechanism for protecting customers. It follows that, before considering limits on the availability of such protective measures, the Commission must address the root issue, illegal changes to customers' chosen carriers. Numerous parties concur that slamming remains a significant problem.⁶

⁴ 47 U.S.C. § 258(b).

⁵ 47 U.S.C. § 258(a).

⁶ See, e.g., Opposition of GTE Service Corporation, RM-9085, CCB/CPD 97-19 at 2-4 (filed June 4, 1997) ("GTE Opposition"); Ameritech Comments at 3-4; Harrisonville Comments at 1-3; SNET Comments at 2-3; Comments of Sprint Communications

Moreover, with the introduction of competition to local and intraLATA toll markets, the opportunities to slam customers have increased. Although WorldCom asserts that incumbent local exchange carriers ("ILECs") will have an incentive to prevent slamming of local and intraLATA toll customers,⁷ it does not explain how, in the absence of effective mechanisms such as PIC-change restrictions, ILECs will be able to prevent slamming from expanding to additional markets. Its suggestions regarding the potential for abuse of PIC-change restrictions are similarly unfounded in that ILECs are required to process changes in customer's carriers in a nondiscriminatory manner. In addition, when customers change from one competitive LEC ("CLEC") to another, as they can currently do with respect to interexchange carriers ("IXCs"), ILECs will have no means of verifying if the change is authorized by the customer.

Modification of PIC-change restriction procedures as requested by MCI without concomitantly addressing the underlying slamming problem will only serve to increase slamming opportunities. As explained below, PIC-change restrictions are being implemented by almost all ILECs in a reasonable and nondiscriminatory manner, and the Commission already has sufficient authority to remedy any abuses through its complaint process. Therefore, prior to enacting any PIC-change restriction rules, the Commission should initiate a rulemaking proceeding to carefully examine all relevant

(...Continued)

Company L.P., RM-9085, CCB/CPD 97-19 at 4-5 (filed June 4, 1997) ("Sprint Comments"); SBC Comments at 4-5.

⁷ Comments of WorldCom, Inc., RM-9085, CCB/CPD 97-19 at 4-5 (filed June 4, 1997) ("WorldCom Comments").

slamming issues and ensure that adequate solutions to protect customers are reasonably available.

II. THERE IS NO NEED FOR PIC-CHANGE RESTRICTION RULES AT THIS TIME.

A. Commenters have not demonstrated any general anti-competitive effects arising out of the use of PIC-change restrictions.

As explained by several of the ILECs commenting in this proceeding, PIC-change restrictions do not thwart competition or prevent customers from changing carriers.⁸ They do, however, prevent carriers from making unauthorized changes to a customer's pre-selected carrier. Most PIC-change restriction procedures only require that the customer either make a telephone call or sign a form he or she receives in the mail and return it to the ILEC.⁹ These procedures are not onerous and do not require significant effort from the customer.¹⁰ Although GTE has received thousands of slamming complaints from its customers, it is unaware of any such complaints

⁸ See Ameritech Comments at 2; SNET Comments at 6; Comments of Bell Atlantic and NYNEX, RM-9085, CCB/CPD 97-19 at 2 (filed June 4, 1997); SBC Comments at 9-10.

⁹ See, e.g., GTE Opposition at 4-5; SBC Comments at 7-9.

¹⁰ Although Cox Communications alleges that facilities-based competitors will be disadvantaged by PIC-change restrictions, Comments of Cox Communications, Inc., RM-9085, CCB/CPD 97-19 at 5 (filed June 4, 1997), GTE fails to understand how they will be affected. If a customer chooses to switch to a facilities-based carrier to receive its local exchange service, that customer will cancel their ILEC service and receive service from a CLEC. The consumer will no longer be an ILEC customer and thus will not be affected by any ILEC PIC-change restriction procedures.

regarding its PIC-change restriction procedures.¹¹ In fact, customers are pleased to have this anti-slamming protection available.

Notwithstanding some commenters' complaints that GTE requires customers with PIC-change restrictions in place to sign a GTE form in order to change carriers,¹² the use of a GTE-provided form is based on sound experience. As both GTE and SBC noted, when ILECs have distributed forms directly to IXCs, these forms have been too frequently returned with forged signatures.¹³ However, none of the commenters who disputed this procedure offered any suggestions for combating forgery.

Commenters supporting limits on PIC-change restrictions also failed to note that ILECs bear the brunt of customer complaints caused by IXCs that fraudulently change a customer's PIC even though ILECs bear no responsibility. Customer service and satisfaction is important to an ILEC, as it is to other carriers. ILECs need to be able to respond to irate customers who have been slammed. Currently, PIC-change restrictions are the only effective option for such a response.

B. The Commission already has the authority to ensure that PIC-change restriction procedures are reasonable.

A number of commenters asserted that additional rules are necessary to prevent the abuse of PIC-change restrictions. However, both the Commission's current rules

¹¹ See *also* SBC Comments at 7 (stating that SBC has received no complaints regarding its PIC-change restriction safeguard).

¹² See, e.g., AT&T Comments at 4.

¹³ SBC Comments at 7-8. See *also* GTE Opposition at 5.

and the Act already prohibit any unreasonable or anti-competitive measures.¹⁴

Similarly, although several commenters urged the Commission to enact rules to prevent ILECs from distributing misleading or deceptive information,¹⁵ the Commission already has authority to prevent ILECs from providing customers with such information under any circumstances, including in connection with PIC-change restrictions.¹⁶ GTE fully agrees that all materials regarding PIC-change restrictions or any other service sent to customers must fully explain all relevant information so that customers can make informed decisions.

In addition, Sprint and other carriers express concern that ILECs will discriminate in favor of their own affiliates or provide their own sales personnel with additional information unavailable to competing carriers.¹⁷ However, these commenters fail to note that the Act specifically prohibits ILECs from discriminating against other carriers, and the Commission has full authority to enforce these provisions. From the descriptions provided in several ILECs' comments, GTE believes that most ILEC PIC-change restriction procedures are fair and reasonable. Nonetheless, any cases of

¹⁴ Although some commenters suggest that PIC-change restrictions may be a violation of the Commission's rules, such a claim is absurd in light of the fact that the Commission recommends that consumers request PIC-change restrictions from their local exchange carrier. See Comments of Telco Communications Group, Inc., RM-9085, CCB/CPD 97-19 at 6-7 (filed June 4, 1997) ("Telco Comments").

¹⁵ AT&T Comments at 4-5; WorldCom Comments at 6; Comments of Citizens Communications, RM-9085, CCB/CPD 97-19 at 5-6 (filed June 4, 1997) ("Citizens Comments").

¹⁶ See 47 U.S.C. § 201(b).

¹⁷ Sprint Comments at 10; C&W Comments at 2-3; Telco Comments at 7-9.

unreasonable or discriminatory practices can be resolved through the Commission's complaint process on a case-by-case basis.¹⁸

C. MCI's proposed rules would not provide customers with any slamming protection and would violate the Act.

Several commenters confirmed GTE's understanding that MCI's proposed rules, which would rely on existing PIC-change verification procedures, will not provide sufficient protection for customers against slamming.¹⁹ Although Telco Communications Group states that "[t]he Commission's PIC verification rules effectively prevent unauthorized PIC changes,"²⁰ the evidence cited both by the Commission and other parties confirms that this is not the case. If slamming were not a significant problem, ILECs would not have developed PIC-change restrictions, and the Commission would not have endorsed their use.²¹

Moreover, several parties noted that MCI's proposal that ILECs provide other carriers with a list of customers employing PIC-change restrictions would violate Section 222 of the Act by mandating the release of customer proprietary network information without customer consent.²² Although some commenters supported this

¹⁸ USTA Comments at 3-4.

¹⁹ Ameritech Comments at 19-21; ALLTEL Comments at 4; SBC Comments at 16.

²⁰ Telco Comments at 5.

²¹ See, e.g., Common Carrier Scorecard, Federal Communication Commission at 7 (Fall 1996).

²² USTA Comments at 3; SBC Comments at 14-15; SNET Comments at 8-9; Citizens Comments at 8-9.

proposal,²³ they uniformly failed to address this threshold legal issue. GTE also remains concerned that carriers would use such lists to target customers with special marketing strategies. Because most customers with PIC-change restrictions in effect have already been slammed, such practices could severely annoy their intended targets.

²³ AT&T Comments at 9; Telco Comments at 9.


III. CONCLUSION

As the Commission and numerous commenters have noted, slamming is a significant problem. Currently, PIC-change restrictions are the only viable method of interdicting slamming attempts. Therefore, before limiting the use of this safeguard and leaving ILECs with no effective options for protecting their subscribers, the Commission should thoroughly review all issues arising out of the slamming problem and ensure that adequate workable measures are available to carriers to prevent this abuse.

Respectfully submitted,

GTE SERVICE CORPORATION, on behalf of its
affiliated domestic telephone operating companies

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036
(202) 463-5214

By: 
Robert J. Butler
Suzanne Yelen
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Its Attorneys

June 19, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June, 1997, I caused copies of the foregoing REPLY OF GTE SERVICE CORPORATION to be served on:

First Class Mail, postage prepaid:

Mary J. Sisak
Mary L. Brown
MCI Telecommunications
Corporation
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Hand Delivery:

International Transcription Services
1231 20th Street, N.W.
Washington, D.C. 20037

Chief, Competitive Pricing Division
Common Carrier Bureau
1919 M Street, N.W.
Room 518
Washington, D.C. 20554


Daphne A. Johnson